

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

HEADWATER RESEARCH LLC,

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD and
SAMSUNG ELECTRONICS AMERICA, INC.,

Defendants.

Case No. 2:23-CV-00103-JRG-RSP

**SAMSUNG'S OBJECTIONS TO THE REPORT AND RECOMMENDATION
ON THE PARTIES' STANDING MOTIONS (DKT. NO. 364)**

ABBREVIATIONS INDEX

In Full	Abbreviation
Defendants Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc.'s	Samsung
Plaintiff Headwater Research LLC and all its purported predecessors	HW or Headwater
Russ, August, & Kabat	RAK
Case No. 2:22-CV-00422-JRG-RSP	-422 case
Case No. 2:23-CV-00103-JRG-RSP	-103 case

Emphasis added unless otherwise noted.

I. INTRODUCTION

On March 31, 2025, the Magistrate Judge issued a Report and Recommendation (“R&R,” Dkt. 364) recommending that the Court find standing in this case. *See* Dkt. 364 (“R&R”). Per 28 U.S.C. § 636, Fed. R. Civ. P. 72, and Local Rule CV-72, Samsung respectfully objects and seeks *de novo* review. Headwater lacks standing because Qualcomm owns the asserted patents through an employment contract with sole inventor Dr. Raleigh. The Court should decline to adopt the R&R because it incorrectly refuses to require corroboration, contrary to law, and because Headwater failed to meet its burden to overcome the presumption that Qualcomm owns the patents-in-suit.

II. ARGUMENT

As stated in the R&R, there is no dispute in this case that Dr. Raleigh’s invention agreement with Qualcomm is valid or that Qualcomm presumptively owns the patents-in-suit based on their January 2009 filing date. *See* R&R at 3. The only issue is whether Headwater has overcome this presumption. It has not.

First, the R&R errs in holding “Dr. Raleigh is not required to corroborate his conception date.” R&R at 4. The R&R cites no Federal Circuit authority to support this conclusion, and there is none. To the contrary, the Federal Circuit has repeatedly held “[e]ven the most credible inventor testimony is *a fortiori* required to be corroborated by independent evidence.” *Apator Miitors ApS v. Kamstrup A/S*, 887 F.3d 1293, 1295 (Fed. Cir. 2018) (citation omitted). This is because conception is a “mental act,” subject to self-serving recollection of events long past. *Dawson v. Dawson*, 710 F.3d 1347, 1352 and n.1 (Fed. Cir. 2013) (ruling against party with burden on conception, like so many conception cases).

In addition, while the R&R draws a distinction between proof of conception *before* a given date versus *after* a given date, the Federal Circuit has never recognized such a distinction. Instead,

the Federal Circuit has held that what must be corroborated is *when* the invention was conceived. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1376 (Fed. Cir. 1986) (the question of whether an invention was conceived “before” a particular date is “more properly” analyzed as “**when** the claimed invention was conceived”) (original emphasis omitted); *see also Fritz v. Hawn*, 37 F.2d 430, 433 (C.C.P.A. 1930) (finding against employee in interference between him and his employer because employment relationship imposed upon him “the burden of proving by competent credible evidence that the conception . . . was his, and not that of his employer”).¹

Second, unlike in the previous *Headwater* case (Case No. 2:22-CV-00422-JRG-RSP, the -422 case), here Headwater produced no evidence corroborating Dr. Raleigh’s alleged date of conception, and the R&R cites none (unlike in the -422 case, where the Court relied upon customer slides for corroboration). At most, the R&R cites documents *not discussing* the claimed invention before January 2009, when the patents-in-suit were filed. *See* R&R at 5-6.

Third, Dr. Raleigh’s testimony that he conceived the claimed invention after he left Qualcomm is contradicted by undisputed evidence. Dr. Raleigh admitted that the asserted patents solved problems that appeared while he was at Qualcomm. He testified “[t]hese patents solved critical problems that literally brought down the Cingular network when the first iPhones and Androids were attached to the network.” Dkt. 177-5 at 45:20-46:21. He also testified “I think the problem began to develop while I was working at Qualcomm. The first iPhones began to go on the network during that time, yeah. And the first Androids that had this multiple app chatter problem began to go on the network in that time frame.” *Id.* at 122:2-15. He also agreed that Qualcomm was affected by the problem: “Everybody in wireless, users, carriers, everybody was affected by

¹ The Court of Customs and Patent Appeals was a predecessor to the Federal Circuit, which adopted C.C.P.A. precedent as its own. *South Corp. v. U.S.*, 690 F.2d 1368, 1369 (Fed. Cir. 1982).

that.” *Id.* at 121:10-17. Furthermore, Dr. Raleigh admitted he had an idea about “technology to manage the way applications connect” to avoid a “disaster on the network” while at Qualcomm. *See* -422 case, Dkt. 236-1 at 46:00-46:51. He further stated that he disclosed this idea to Qualcomm CEO Dr. Jacobs before he left Qualcomm and then took it to Headwater, where “it’s now in every smartphone on the planet.” *Id.* These admissions directly contradict the R&R’s conclusion that Dr. Raleigh conceived the invention after he left Qualcomm.

In addition, the timeline in this case is not consistent with Dr. Raleigh’s story since he would have the Court believe he conceived the invention in the short time between his departure from Qualcomm in September 2008 and his patent filing in January 2009, a time period much shorter than the twenty months alleged in the -422 case. The R&R fails to acknowledge the undisputed evidence that Dr. Raleigh incorporated Headwater even before he left Qualcomm and began working on the technology at issue. *See* 2-20-25 Evidentiary Hearing Tr. at 78:18-79:18, 113:12-118:7. Failure to consider these facts is inconsistent with the Court’s duty to consider “the totality of the evidence.” *Intell. Ventures II LLC v. Motorola*, 692 F. App’x 626, 627 (Fed. Cir. 2017).

Fourth, the R&R relies on the fact that Qualcomm tried to buy the Headwater patents in 2017. However, the evidence demonstrates that Qualcomm actually asserted ownership of the patents in 2009. *See* Dkt. 177-8, Dkt. 177-9 at HW_00104071-72. In other words, Qualcomm believed it owned the patents when it was closer to the issue, and the R&R does not address this key point. *See Intell. Ventures*, 692 F. App’x at 627 (“the Board was too dismissive and erred in refusing to consider this evidence”).

III. CONCLUSION

The Court should overrule the R&R and dismiss this case for lack of standing because Qualcomm, not Headwater, owns the patents-in-suit.

Dated: April 14, 2025

Respectfully submitted,

By: /s/ John W. Thornburgh

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically in compliance with Local Rule CV-5 on April 14, 2025. As of this date, all counsel of record had consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A).

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